IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SIXTH DAY OF SEPTEMBER
TWO THOUSAND AND SEVEN

PRESENT

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.24016 OF 2000

Between:

SBI Colony Welfare Association,
Rep. by its General Secretary,
S.R.Sridharan.

.... PETITIONER

AND

Municipal Corporation of Hyderabad, rep. By
Its Additional Commissioner (East Zone),
Tank Bund, Hyderabad, and others.

....RESPONDENTS

THE HON'BLE SRI JUSTICE
C.Y.SOMAYAJULU

WRIT PETITION NO.24016 OF 2000

O R D E R

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The case of the petitioner, which is a Welfare Association of S.B.I. Colony, Gandhinagar, is that while submitting an application for lay-out, it ear-marked an area of 1200 sq. yds. for park, but respondents 1 and 2 have permitted the third respondent to make a pacca construction in that area ear-marked as park. So, they filed this writ petition questioning the action of respondents 1 and 2 in permitting the third respondent to make constructions in the area ear-marked for park.

2. In the counter-affidavit of the Assistant City Planner, filed on behalf of Respondents 1 and 2, he admitted that an extent of 1200 square yards was ear-marked for a park, and that that site was developed as a park, and that in a corner of that park A.P.D.D.C. opened a milk booth to cater to the needs of the colony people and that booth, in fact, is being run by the petitioner society itself and that the third respondent was permitted to erect a small bunk for the purpose of running a PCO and a tailoring shop in the open space adjoining to the milk booth, on certain conditions, for eleven months, as that area remained vacant after development of the park and if it is inconvenient, or if that area also is intended to be developed as a park, that structure

can be removed as per the terms and conditions of the permission granted to third respondent to run the PCO for eleven months. No permission to make permanent structures was granted to the third respondent and third respondent will not be permitted to run her shop in a permanent structure and the structures made by the third respondent would be removed subject to the orders of the Court.

3. In the counter-affidavit filed by the third respondent it is alleged that it is only after the petitioner issued a no objection letter dated 04.03.1996 to open a small tailoring shop in a tin shed in the park area, by the side of the Mother Diary Milk Book, only was she granted the permission to run a public telephone booth. For eking out her livelihood and to cater to the needs of the locality people of that locality only she is running a tailoring shop also there, for which the petitioner society cannot have any grievance.

4. Heard the learned counsel for the petitioner and the learned Standing Counsel for Municipal Corporation, Hyderabad. There is no representation on behalf of the third respondent.

5. The fact that an area of 1200 sq. yards was ear-marked for park is not denied or disputed by the respondents. In fact, respondent Nos.1 and 2 admitted that that area was developed as a park. Third respondent in her counter-affidavit admitted that as a no objection letter was issued by the petitioner, she was granted permission to open the P.C.O. In a catena of decisions, the Apex Court and this Court held that an area ear-marked for park cannot be used for any other purpose. The averment in the counter-affidavit filed on behalf of respondent Nos.1 and 2 that the milk booth is being run in that area by the petitioner itself, is not denied or disputed by the petitioner by filing a reply affidavit. As per the counter-affidavit filed on behalf of Respondent Nos.1 and 2, third respondent was granted permission to run a Public Call Office for a period of eleven months. It is not known if

the permission granted to the third respondent is extended and if she still is running a P.C.O. there or not.

6. If the petitioner society feels that running of PCO in the area adjacent to the milk booth is a nuisance or inconvenience to the residents of that area, it can make a representation to the respondent Nos.1 and 2, basing on which respondent Nos.1 and 2 should take a decision whether to renew the license granted to the third respondent or not. But, it is made clear that third respondent cannot be permitted to construct any permanent structures and should not be permitted to extend the area of occupation. With the above direction, the writ petition is disposed of. No costs.

JUSTICE C.Y.SOMAYAJULU

26th SEPTEMBER, 2007
PGS

THE HONOURABLE SRI JUSTICE

C.Y.SOMAYAJULU

W.P.NO.24016 OF 2000

26th SEPTEMBER, 2007